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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NAKIA V. PORTER, et al.

Plaintiffs,

vs.

COUNTY OF SOLANO, et al.

Defendants.

) Case No.: 2:21-cv-01473-KJM-JDP

)

) **DEFENDANTS CITY OF DIXON, DIXON**

) **POLICE DEPARTMENT, OFFICER**

) **GABRIEL HOLLINGSHEAD AND**

) **OFFICER AARON WILLIAM'S**

) **ANSWER TO SECOND AMENDED**

) **COMPLAINT AND DEMAND FOR JURY**

) **TRIAL**

)

)

)

Defendants CITY OF DIXON, DIXON POLICE DEPARTMENT, CHIEF ROBERT THOMPSON, OFFICER GABRIEL HOLLINGSHEAD, and OFFICER AARON WILLIAMS ("Defendants") answer the Second Amended Complaint ("SAC") as follows. Defendants generally denies all allegations except those specifically admitted.

I. NATURE OF THE ACTION

1. Paragraphs 1 through 2 are an introduction, consisting mostly of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of any factual allegations and deny any allegations of wrongdoing by Defendants.

2 **II. JURISDICTION AND VENUE**

3 2. Responding to Paragraph 3, admit jurisdiction is proper.

4 3. Responding to Paragraph 4, admit venue is proper.

5 **III. PARTIES**

6 **A. PLAINTIFFS**

7 4. Responding to Paragraphs 5 through 13, Defendants lack knowledge or information
8 sufficient to form a belief as to the truth of the allegations and on that basis denies the allegations.

9 5. Responding to Paragraph 14, this paragraph defines “Children” and “Plaintiff” as
10 referenced throughout the SAC and does not require a response.

11 **B. DEFENDANTS**

12 6. Responding to Paragraph 15, these are legal conclusions to which no response is
13 required.

14 7. Responding to Paragraph 16, these are legal conclusions to which no response is
15 required.

16 8. Responding to Paragraphs 17 through 21, Defendants lack sufficient knowledge or
17 information to form a belief as to the truth of the allegations and on that basis denies the allegations.

18 9. Responding to Paragraph 22, admit that the City of Dixon is a municipality
19 organized and existing under the laws of the State of California. The remaining allegations in
20 Paragraph 22 are legal conclusions to which no response is required.

21 10. Responding to Paragraph 23, admit Dixon PD is a law enforcement agency
22 operating in the City of Dixon, California in Solano County. The remaining allegations in
23 Paragraph 23 are legal conclusions to which no response is required.

24 11. Responding to Paragraph 24, admit Gabriel Hollingshead was a police officer for
25 the City of Dixon. The remaining allegations in Paragraph 24 are legal conclusions to which no
26 response is required.

27 12. Responding to Paragraph 25, admit Aaron Williams was a police officer for the
28 City of Dixon. The remaining allegations in Paragraph 25 are legal conclusions to which no

1 response is required.

2 **IV. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

3 **A. CONSTITUTIONAL AND STATE LAW VIOLATIONS BY THE SOLANO COUNTY SHERIFF**

4 13. Responding to Paragraph 26, Defendants lack knowledge or information sufficient
5 to form a belief as to the truth of the allegations and on that basis denies the allegations.

6 14. Responding to Paragraph 27, Defendants lack knowledge or information sufficient
7 to form a belief as to the truth of the allegations and on that basis denies the allegations.

8 15. Responding to Paragraphs 28 through 32, Defendants lack knowledge or
9 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
10 allegations.

11 16. Responding to Paragraph 33, this paragraph consists mostly of legal theory,
12 conclusions, and arguments to which no response is required; however, to the extent an answer is
13 deemed required, Defendants lack sufficient knowledge or information to form a belief as to the
14 truth of the allegations and on that basis denies the allegations.

15 17. Responding to Paragraph 34, Defendants lack knowledge or information sufficient
16 to form a belief as to the truth of the allegations and on that basis denies the allegations.

17 18. Responding to Paragraphs 35 through 37, these paragraphs consist mostly of legal
18 theory, conclusions, and argument to which no response is required; however to the extent an
19 answer is deemed required, Defendants lack knowledge or information sufficient to form a belief
20 as to the truth of the allegations and on that basis denies the allegations.

21 19. Responding to Paragraphs 38 through 41, Defendants lack knowledge or
22 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
23 allegations.

24 20. Responding to Paragraph 42, these paragraphs consist of legal theory, conclusions,
25 and argument to which no response is required; however, to the extent an answer is deemed
26 required, Defendants lack knowledge or information sufficient to form a belief as to the truth of
27 the allegations and on that basis denies the allegations.

28 21. Responding to Paragraph 43, deny Officer Hollingshead pointed a gun at any

1 Plaintiff. The remaining allegations in Paragraph 43 consist of legal theory, conclusions, and
2 argument to which no response is required; however, to the extent an answer is deemed required,
3 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
4 allegations and on that basis denies the allegations.

5 22. Responding to Paragraph 44, Defendants lack knowledge or information sufficient
6 to form a belief as to the truth of the allegations and on that basis denies the allegations.

7 23. Responding to Paragraph 45, Defendants lack knowledge or information sufficient
8 to form a belief as to the truth of the remaining allegations in Paragraph 45 and on that basis denies
9 the allegations.

10 24. Responding to Paragraph 46, deny that Officer Hollingshead and Officer Williams
11 pointed their gun at Plaintiffs' vehicle or at any Plaintiff. The remaining allegations in Paragraph
12 46 consist of legal theory, conclusions, and argument to which no response is required; however,
13 to the extent an answer is deemed required, Defendants lack knowledge or information sufficient
14 to form a belief as to the truth of the allegations and on that basis denies the allegation.

15 25. Responding to Paragraph 47, deny that Officer Hollingshead and Officer Williams
16 searched Plaintiffs' vehicle or shined a flashlight in any Plaintiffs' face. The remaining allegations
17 in Paragraph 47 consist of legal theory, conclusions, and argument to which no response is
18 required; however, to the extent an answer is deemed required, Defendants lack knowledge or
19 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
20 allegation.

21 26. Responding to Paragraph 48, Defendants lack knowledge or information sufficient
22 to form a belief as to the truth of the allegations and on that basis denies the allegations.

23 27. Responding to Paragraph 49, the allegations in this paragraph consist entirely of
24 legal theory, conclusions, and argument to which no response is required; however, to the extent
25 an answer is deemed required, Defendants lack knowledge or information sufficient to form a
26 belief as to the truth of the allegations and on that basis denies the allegation.

27 28. Responding to Paragraph 50, admit Officer Hollingshead and Officer Williams
28 arrived on scene after Nakia Porter had been detained and put in the back of the Solano Deputies'

1 vehicle. The remaining allegations in Paragraph 50 consist of legal theory, conclusions, and
2 argument to which no response is required; however, to the extent an answer is deemed required,
3 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
4 allegations and on that basis denies the allegation.

5 29. Responding to Paragraphs 51 through 55, Defendants lack knowledge or
6 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
7 allegations.

8 30. Responding to Paragraph 56, the allegations in this paragraph consist entirely of
9 legal theory, conclusions, and argument to which no response is required; however, to the extent
10 an answer is deemed required, Defendants lack knowledge or information sufficient to form a
11 belief as to the truth of the allegations and on that basis denies the allegation.

12 31. Responding to Paragraphs 57 through 60, Defendants lack knowledge or
13 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
14 allegations.

15 32. Responding to Paragraph 61, these allegations consist of legal theory, conclusions,
16 and argument to which no response is required; however, to the extent an answer is deemed
17 required, Defendants lack knowledge or information sufficient to form a belief as to the truth of
18 those allegations and on that basis denies the allegation

19 33. Responding to Paragraph 62, the allegations in this paragraph consist entirely of
20 legal theory, conclusions, and argument to which no response is required; however, to the extent
21 an answer is deemed required, Defendants lack knowledge or information sufficient to form a
22 belief as to the truth of the allegations and on that basis denies the allegation.

23 **B. PLAINTIFFS' INJURIES**

24 34. Responding to Paragraph 63, this paragraph consist entirely of legal theory,
25 conclusions, and arguments to which no response is required; however, to the extent an answer is
26 deemed required, Defendants lack knowledge or information sufficient to form a belief as to the
27 truth of the allegations and on that basis denies the allegations.

28 35. Responding to Paragraphs 64 through 70, Defendants lack knowledge or

1 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
2 allegations.

3 36. Responding to Paragraph 71, deny Defendants caused Plaintiffs' alleged injuries.
4 Defendants lack knowledge or information sufficient to form a belief as to the truth of any
5 remaining allegations and on that basis denies the allegations.

6 **C. PATTERN AND PRACTICE OF RACIAL PROFILING AND EXCESSIVE FORCE**

7 37. Responding to Paragraphs 72 through 82, these paragraphs consist entirely of legal
8 theory, conclusions, and arguments to which no response is required; however, to the extent an
9 answer is deemed required, Defendants lack knowledge or information sufficient to form a belief
10 as to the truth of any remaining allegations and on that basis denies the allegations.

11 **D. CONCEALMENT AND SPOILIATION OF EVIDENCE**

12 38. Responding to Paragraph 83, these paragraphs consist of legal theory, conclusions,
13 and arguments to which no response is required; however, to the extent an answer is deemed
14 required, Defendants admit that they arrived on scene after Ms. Porter was detained. Defendants
15 lack knowledge or information sufficient to form a belief as to the truth of any remaining
16 allegations and on that basis deny the allegations.

17 39. Responding to Paragraphs 84 through 86, Defendants lack knowledge or
18 information sufficient to form a belief as to the truth of the allegations and on that basis denies the
19 allegations.

20 40. Responding to Paragraphs 87 through 88, these paragraphs consist entirely of legal
21 theory, conclusions, and argument to which no response is required; however, to the extent an
22 answer is deemed required, Defendants lack knowledge or information sufficient to form a belief
23 as to the truth of the allegations and on that basis denies the allegations.

24 **E. ADMINISTRATIVE CLAIM**

25 41. Responding to Paragraphs 89 through 92, to the extent these paragraphs contain
26 legal theory, conclusions, and argument, no response is required or provided. Otherwise,
27 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
28 allegations and on that basis denies the allegations.

1 42. Responding to Paragraphs 93 through 96, to the extent these paragraphs contain
2 legal theory, conclusions, and argument, no response is required or provided. Otherwise, admit the
3 dates relative to the City of Dixon are accurate. Defendants lack knowledge or information
4 sufficient to form a belief as to the truth of any remaining allegations and on that basis denies
5 those.

6 43. Responding to Paragraph 97, this is a legal conclusion for which no response is
7 required or provided.

8 **FIRST CLAIM FOR RELIEF**

9 **FOURTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION**

10 **42 U.S.C. § 1983**

11 **(UNLAWFUL SEIZURE)**

12 **(AIDING AND ABETTING)**

13 44. Responding to Paragraph 98, Defendants incorporate herein all corresponding
14 responses to every previous paragraph re-alleged and incorporated into this paragraph.

15 45. Responding to Paragraphs 98 through 103, the allegations in these paragraphs
16 consist entirely of legal theory, conclusions, and argument to which no response is required;
17 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

18 **SECOND CLAIM FOR RELIEF**

19 **FOURTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION**

20 **VIOLATION OF 42 U.S.C. § 1983**

21 **(EXCESSIVE FORCE)**

22 **(AIDING AND ABETTING)**

23 **(Against All Individual Defendants)**

24 46. Responding to Paragraph 104, Defendants incorporate herein all corresponding
25 responses to every previous paragraph re-alleged and incorporated into this paragraph.

26 47. Responding to Paragraphs 105 through 108, the allegations in these paragraphs
27 consist entirely of legal theory, conclusions, and argument to which no response is required;
28 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

THIRD CLAIM FOR RELIEF
FOURTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION
VIOLATION OF 42 U.S.C. § 1983
(UNLAWFUL SEARCH)
(AIDING AND ABETTING)
(Against All Individual Defendants)

48. Responding to Paragraph 109, Defendants incorporate herein all corresponding responses to every previous paragraph re-alleged and incorporated into this paragraph.

49. Responding to Paragraphs 110 through 113, the allegations in these paragraphs consist entirely of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants deny each and every allegation.

FOURTH CLAIM FOR RELIEF
FOURTH, FIFTH, AND FOURTEENTH AMENDMENTS TO THE U.S.
CONSTITUTION
VIOLATION OF 42 U.S.C. § 1983
(FALSE STATEMENTS AND FABRICATION OF EVIDENCE)
(AIDING AND ABETTING)
(Against Defendants Stockton, McCampbell, and McDowell)

50. Responding to Paragraph 114, Defendants incorporate herein all corresponding responses to every previous paragraph re-alleged and incorporated into this paragraph.

51. Responding to Paragraphs 115 through 118, the allegations in these paragraphs consist entirely of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants deny each and every allegation.

FIFTH CLAIM FOR RELIEF
FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION
VIOLATION OF 42 U.S.C. § 1983
(EQUAL PROTECTION)
(AIDING AND ABETTING)

(Against All Individual Defendants)

52. Responding to Paragraph 119, Defendants incorporate herein all corresponding responses to every previous paragraph re-alleged and incorporated into this paragraph.

53. Responding to Paragraphs 120 through 125, the allegations in these paragraphs consist entirely of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants deny each and every allegation.

SIXTH CLAIM FOR RELIEF

CAL. CIV. CODE § 52.1 (TOM BANE CIVIL RIGHTS ACT)

(AIDING AND ABETTING)

(Against All Defendants)

54. Responding to Paragraph 126, Defendants incorporate herein all corresponding responses to every previous paragraph re-alleged and incorporated into this paragraph.

55. Responding to Paragraphs 127 through 135, the allegations in these paragraphs consist entirely of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants deny each and every allegation.

SEVENTH CLAIM FOR RELIEF

CAL. CIV. CODE § 51.7 (RALPH CIVIL RIGHTS ACT)

(AIDING AND ABETTING)

(Against All Defendants)

56. Responding to Paragraph 136, Defendants incorporate herein all corresponding responses to every previous paragraph re-alleged and incorporated into this paragraph.

57. Responding to Paragraphs 137 through 143, the allegations in these paragraphs consist entirely of legal theory, conclusions, and argument to which no response is required; however, to the extent an answer is deemed required, Defendants deny each and every allegation.

EIGHTH CLAIM FOR RELIEF

CAL. GOV. CODE § 815.6

(Aiding & Abetting)

(Against All Defendants)

1 58. Responding to Paragraph 144, Defendants incorporate herein all corresponding
2 responses to every previous paragraph re-alleged and incorporated into this paragraph.

3 59. Responding to Paragraphs 145 through 150, the allegations in these paragraphs
4 consist entirely of legal theory, conclusions, and argument to which no response is required;
5 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

6 **NINTH CLAIM FOR RELIEF**

7 **FALSE IMPRISONMENT**

8 **(AIDING AND ABETTING)**

9 **(Against All Defendants)**

10 60. Responding to Paragraph 151, Defendants incorporate herein all corresponding
11 responses to every previous paragraph re-alleged and incorporated into this paragraph.

12 61. Responding to Paragraphs 152 through 156, the allegations in these paragraphs
13 consist entirely of legal theory, conclusions, and argument to which no response is required;
14 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

15 **TENTH CLAIM FOR RELIEF**

16 **ASSAULT & BATTERY**

17 **(AIDING AND ABETTING)**

18 **(Against All Defendants)**

19 62. Responding to Paragraph 157, Defendants incorporate herein all corresponding
20 responses to every previous paragraph re-alleged and incorporated into this paragraph.

21 63. Responding to Paragraphs 158 through 164, the allegations in these paragraphs
22 consist entirely of legal theory, conclusions, and argument to which no response is required;
23 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

24 **ELEVENTH CLAIM FOR RELIEF**

25 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

26 **(AIDING AND ABETTING)**

27 **(Against All Defendants)**

28 64. Responding to Paragraph 165, Defendants incorporate herein all corresponding

1 responses to every previous paragraph re-alleged and incorporated into this paragraph.

2 65. Responding to Paragraphs 166 through 171, the allegations in these paragraphs
3 consist entirely of legal theory, conclusions, and argument to which no response is required;
4 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

5 **TWELFTH CLAIM FOR RELIEF**

6 **NEGLIGENCE PER SE**

7 **(AIDING AND ABETTING)**

8 **(Against All Defendants)**

9 66. Responding to Paragraph 172, Defendants incorporate herein all corresponding
10 responses to every previous paragraph re-alleged and incorporated into this paragraph.

11 67. Responding to Paragraphs 173 through 187, the allegations in these paragraphs
12 consist entirely of legal theory, conclusions, and argument to which no response is required;
13 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

14 **THIRTEENTH CLAIM FOR RELIEF**

15 **NEGLIGENCE**

16 **(MALICE AND OPPRESSION)**

17 **(Against All Defendants)**

18 1. Responding to Paragraph 188, Defendants incorporate herein all corresponding
19 responses to every previous paragraph re-alleged and incorporated into this paragraph.

20 2. Responding to Paragraphs 189 through 1195, the allegations in these paragraphs
21 consist entirely of legal theory, conclusions, and argument to which no response is required;
22 however, to the extent an answer is deemed required, Defendants deny each and every allegation.

23 **AFFIRMATIVE DEFENSES**

24 Without admitting any allegations of the Second Amended Complaint or assuming the
25 burden of proof of any of the following claims, defenses, or issues, Defendants are informed and
26 believe, and upon such information and belief allege the following affirmative defenses:

27 1. The SAC fails to state sufficient facts to support a claim for which relief can be
28 granted.

1 2. Plaintiffs' claims are barred by the applicable statute of limitations.

2 3. Plaintiffs' state law claims are barred by their failure to comply with the California
3 Tort Claims Act (Cal. Gov. Code §§ 900 *et seq.*)

4 4. Defendants Hollingshead and Williams are entitled to qualified immunity because
5 their conduct did not violate clearly established law.

6 5. Defendants assert that if they are adjudged, decreed, or otherwise determined to be
7 liable to Plaintiffs, then in that event, Defendants will be entitled to apportion the degree of fault
8 or responsibility for said incident attributable to the Plaintiffs or to any other individual or entity.
9 The amount of damages attributable to these answering Defendants is to be abated, reduced, or
10 eliminated to the extent that the Plaintiffs' own negligence, or the negligence of any other
11 individual or entity, contributed to the Plaintiffs' claimed damages, if any there were.

12 6. Defendants are entitled to statutory immunity over all state-law claims, including
13 claims for punitive damages, pursuant to California Government Code Title 1, Division 3.6.

14 7. Defendants acted reasonably and in good faith at all times.

15 8. The SAC fails to state facts sufficient to constitute punitive damages.

16 9. Plaintiffs have failed to mitigate damages, if any there are.

17 10. Plaintiffs' claims are barred from relief pursuant to the doctrine of unclean hands.

18 11. Defendants contend that they cannot fully anticipate all affirmative defenses that
19 may be applicable to this action based upon the conclusory terms used in Plaintiffs' complaint and
20 on that basis reserve the right to assert additional affirmative defenses.

21 **PRAYER**

22 WHEREFORE, Defendants request the following relief:

23 1. That Plaintiffs' Second Amended Complaint be dismissed in its entirety without
24 leave to amend and that Plaintiffs take nothing by way of the Second Amended Complaint;

25 2. That Defendants be henceforth dismissed from this matter with prejudice;

26 3. That judgment be entered in favor of Defendants and against Plaintiffs;

27 4. That Defendants be awarded attorney's fees and costs of suit incurred under and by
28 virtue of the laws stated above; and

1 5. For such other and further relief as the Court deems just and proper.

2
3 Dated: February 1, 2023

ANGELO, KILDAY & KILDUFF, LLP

4 */s/ Jacob J. Graham*

5 By: _____

JACOB J. GRAHAM

6 DERICK E. KONZ

7 Attorneys for Defendants CITY OF

DIXON, DIXON POLICE

8 DEPARTMENT, OFFICER GABRIEL

HOLLINGSHEAD and OFFICER

9 AARON WILLIAMS

10 **DEMAND FOR JURY TRIAL**

11 Defendants respectfully demand that all issues of fact be tried herein by and before a jury.

12
13 Dated: February 1, 2023

ANGELO, KILDAY & KILDUFF, LLP

14 */s/ Jacob J. Graham*

15 By: _____

16 JACOB J. GRAHAM

17 DERICK E. KONZ

Attorneys for Defendants CITY OF

18 DIXON, DIXON POLICE

19 DEPARTMENT, OFFICER GABRIEL

HOLLINGSHEAD and OFFICER

20 AARON WILLIAMS